



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2017 Biennium

<b>Bill #</b>	SB0298	<b>Title:</b>	Enforce provisions of the enabling act regarding sale of public lands
<b>Primary Sponsor:</b>	Fielder, Jennifer	<b>Status:</b>	As Amended in Senate Committee

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input type="checkbox"/> Needs to be included in HB 2             | <input checked="" type="checkbox"/> Technical Concerns   |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
<b>Expenditures:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

**Description of fiscal impact:** As amended, SB 298 will require the Attorney General's Office to pursue reimbursement of money owed to Montana related to common schools funding, to the extent feasible using available state resources. It is unknown if there will be available state resources for this purpose.

### FISCAL ANALYSIS

#### Long-Term Impacts:

- Should the litigation be successful, any funds recovered would be deposited in the common schools permanent fund. It is not possible to determine if, or when, those funds could be recovered; or in what amount.

#### Technical Notes:

- Section 1, subsection 2 specifies that "The attorney general shall pursue payment of the funds owed to Montana pursuant to subsection (1)". This fiscal note assumes that the Department of Justice (DOJ) will pursue litigation on its own, if resources are available. The common schools trust beneficiary is managed by the Department of Natural Resources (DNRC) – Trust Land Management Division (TLMD). If the DOJ determines it had resources available to pursue litigation, it is unknown if DNRC would have resources available to become involved as well.

2. No prior case law could be found where a state had pursued contract claims against the federal government for improper payments under similar Enabling Acts. It is presumed that such litigation would be filed in the U.S. Court of Claims under 28 USC Section 1491(a)(1), which grants the Court “. . . jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort”.

---

*Sponsor's Initials*

---

*Date*

---

*Budget Director's Initials*

---

*Date*